

More than 5,100 Milwaukee minority children attend suburban schools under the program this year while 540 suburban whites attend Milwaukee schools.

H.R. 1817: RURAL CELLULAR
LEGISLATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1999

Mr. GILMAN. Mr. Speaker, today I'm introducing H.R. 1817, legislation to improve cellular telephone service in three rural areas located in Pennsylvania, Minnesota, and Florida. Joining me as cosponsors are Representatives CAROLYN MALONEY and ANNA ESHOO.

Most rural areas of this country have two cellular licensees competing to provide quality service over their respective service territories. Competition between two licensees improves service for businesses, governments, and private users, at the same time, improves response times for emergency services.

Unfortunately, three rural service areas in Pennsylvania, Minnesota, and Florida do not enjoy the benefit of this competition. The Pennsylvania rural service area has only one cellular operator. The Minnesota rural service area and the Florida rural service area each have two operators, but one of the operators in each area is operating under a temporary license and thus lacks the incentive to optimize service. The reason for this lack of competition is that in 1992 the FCC disqualified three partnerships that had won the licenses, after finding that they had not complied with its "letter-perfect" application rule under the foreign ownership restrictions of the Communications Act of 1934. Significantly, the FCC has allowed other similarly situated licensees to correct their applications and, moreover, Congress repealed the relevant foreign ownership restrictions in the Telecommunications Act of 1996.

In the 105th Congress, former Representative Joe McDade, joined by Representative ANNA ESHOO and former Representative Scott Klug, introduced H.R. 2901 to address this problem. In September 1998, the Telecommunications Subcommittee of the Commerce Committee held a hearing on FCC spectrum management that included testimony on and discussion of H.R. 2901. Later that month, the full Commerce Committee incorporated a modified version of H.R. 2901 into H.R. 3888, the Anti-Slamming bill. In October 1998, the House approved H.R. 3888, incorporating a further modified version of H.R. 2901, by voice vote on suspension (CONGRESSIONAL RECORD, Oct. 12, 1998, H10606-H10615). Unfortunately, the bill died in the Senate in the last few days prior to adjournment for reasons unrelated to the rural cellular provision.

H.R. 1817 is based on the rural cellular provision contained in H.R. 3888, as approved by the House. The legislation would direct the FCC to allow the partnerships denied licenses to serve the Pennsylvania, Minnesota, and Florida rural service areas to resubmit their application consistent with FCC rules and procedures. The partnerships would pay fees to the FCC consistent with previous FCC auctions and settlements with other similarly situ-

ated licensees. To ensure speedy service to cellular customers, the FCC would have 90 days from date of enactment to award permanent licenses, and if any company failed to comply with FCC requirements the FCC would auction the license. The licenses would be subject to a 5-year transfer restriction, and the Minnesota and Florida licenses would be subject to accelerated build-out requirements.

H.R. 1817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF APPLICANTS AS TENTATIVE SELECTEES.

(a) IN GENERAL.—Notwithstanding the order of the Federal Communications Commission in the proceeding described in subsection (c), the Commission shall—

(1) reinstate each applicant as a tentative selectee under the covered rural service area licensing proceeding; and

(2) permit each applicant to amend its application, to the extent necessary to update factual information and to comply with the rules of the Commission, at any time before the Commission's final licensing action in the covered rural service area licensing proceeding.

(b) EXEMPTION FROM PETITIONS TO DENY.—For purposes of the amended applications filed pursuant to subsection (a)(2), the provisions of section 309(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)) shall not apply.

(c) PROCEEDING.—The proceeding described in this subsection is the proceeding of the Commission in re Applications of Cellwave Telephone Services L.P., Futurewave General Partners L.P., and Great Western Cellular Partners, 7 FCC Rcd No. 19 (1992).

SEC. 2. CONTINUATION OF LICENSE PROCEEDING; FEE ASSESSMENT.

(a) AWARD OF LICENSES.—The Commission shall award licenses under the covered rural service area licensing proceeding within 90 days after the date of the enactment of this Act.

(b) SERVICE REQUIREMENTS.—The Commission shall provide that, as a condition of an applicant receiving a license pursuant to a covered rural service area licensing proceeding, the applicant shall provide cellular radio-telephone service to subscribers in accordance with sections 22.946 and 22.947 of the Commission's rules (47 CFR 22.946, 22.947); except that the time period applicable under section 22.947 of the Commission's rules (or any successor rule) to the applicants identified in subparagraphs (A) and (B) of section 4(1) shall be 3 years rather than 5 years and the waiver authority of the Commission shall apply to such 3-year period.

(c) CALCULATION OF LICENSE FEE.—

(1) FEE REQUIRED.—The Commission shall establish a fee for each of the licenses under the covered rural service area licensing proceeding. In determining the amount of the fee, the Commission shall consider—

(A) the average price paid per price paid per person served in the Commission's Cellular Unserved Auction (Auction No. 12); and

(B) the settlement payments required to be paid by the permittees pursuant to the consent decree set forth in the Commission's order, In re the Tellesis Partners (7 FCC Rcd 3168 (1992)), multiplying such payments by two.

(2) NOTICE OF FEE.—Within 30 days after the date an applicant files the amended application permitted by section 1(a)(2), the Commission shall notify each applicant of the fee established for the license associated with its application.

(d) PAYMENT FOR LICENSES.—No later than 18 months after the date that an applicant is

granted a license, each applicant shall pay to the Commission the fee established pursuant to subsection (c) of this section for the license granted to the applicant under subsection (a).

(e) AUCTION AUTHORITY.—If, after the amendment of an application pursuant to section 1(a)(2) of this Act, the Commission finds that the applicant is ineligible for grant of a license to provide cellular radio-telephone services for a rural service area or the applicant does not meet the requirements under subsection (b) of this section, the Commission shall grant the license for which the applicant is the tentative selectee (pursuant to section 1(a)(1)) by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

SEC. 3. PROHIBITION OF TRANSFER.

During the 5-year period that begins on the date that an applicant is granted any license pursuant to section 1, the Commission may not authorize the transfer or assignment of that license under section 310 of the Communications Act of 1934 (47 U.S.C. 310). Nothing in this Act may be construed to prohibit any applicant granted a license pursuant to section 1 from contracting with other licensees to improve cellular telephone service.

SEC. 4. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) APPLICANT.—The term "applicant" means—

(A) Great Western Cellular Partners, a California general partnership chosen by the Commission as tentative selectee for RSA #492 on May 4, 1989;

(B) Monroe Telephone Services L.P., a Delaware limited partnership chosen by the Commission as tentative selectee for RSA #370 on August 24, 1989 (formerly Cellwave Telephone Services L.P.); and

(C) FutureWave General Partners L.P., a Delaware limited partnership chosen by the Commission as tentative selectee for RSA #615 on May 25, 1990.

(2) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(3) COVERED RURAL SERVICE AREA LICENSING PROCEEDING.—The term "covered rural service area licensing proceeding" mean the proceeding of the Commission for the grant of cellular radiotelephone licenses for rural service areas #492 (Minnesota 11), #370 (Florida 11), and #615 (Pennsylvania 4).

(4) TENTATIVE SELECTEE.—The term "tentative selectee" means a party that has been selected by the Commission under a licensing proceeding for grant of a license, but has not yet been granted the license because the Commission has not yet determined whether the party is qualified under the Commission's rules for grant of the license.

HONORING ROSE ANN VUICH

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 27, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to introduce a brief biography on Senator Rose Ann Vuich, who, for her ethical leadership, has been honored with an award in her namesake. The Rose Ann Vuich Ethical Leadership Award is designed to increase ethical sensitivity, raise expectations for behavior and acknowledge personal integrity. The first recipient of the award was Fresno County Supervisor Sharon Levy. This year's recipient is Lindsay Mayor Valeriano Saucedo.